

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #10	CCRB Case #: 201708116	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 09/24/2017 1:00 AM	Location of Incident: Hegeman Avenue and Vermont Street; PSA 2 stationhouse	Precinct: 75	18 Mo. SOL 3/24/2019	EO SOL 3/24/2019	
Date/Time CV Reported Sat, 09/30/2017 11:38 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 09/30/2017 11:38 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Daniel Conforti	01237	940995	PSA 2
2. POM Joseph Fallon	30514	954791	PSA 2
3. POM Frank Ryan	21262	952201	PSA 2
4. SGT David Grieco	03830	940216	PSA 2
5. POM John Funk	10314	954830	PSA 2
6. An officer			PSA 2

Officer(s)	Allegation	Investigator Recommendation
A.SGT David Grieco	Abuse: At Hegeman Avenue and Vermont Street in Brooklyn, Sergeant David Grieco stopped § 87(2)(b)	
B.POM Joseph Fallon	Abuse: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon stopped § 87(2)(b)	
C.POM Frank Ryan	Abuse: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Frank Ryan stopped § 87(2)(b)	
D.SGT David Grieco	Abuse: At Hegeman Avenue and Vermont Street in Brooklyn, Sergeant David Grieco stopped § 87(2)(b) and § 87(2)(b)	
E.POM Joseph Fallon	Abuse: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon stopped § 87(2)(b) and § 87(2)(b)	
F.POM Frank Ryan	Abuse: At Hegeman Avenue and Vermont Street, Police Officer Frank Ryan stopped § 87(2)(b) and § 87(2)(b)	
G.POM Joseph Fallon	Force: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
H.POM Joseph Fallon	Discourtesy: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon spoke discourteously to § 87(2)(b)	
I.SGT David Grieco	Discourtesy: At Hegeman Avenue and Vermont Street in Brooklyn, Sergeant David Grieco spoke discourteously to § 87(2)(b) and § 87(2)(b)	
J.POM Joseph Fallon	Discourtesy: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon spoke discourteously to § 87(2)(b) and § 87(2)(b)	
K.SGT David Grieco	Abuse: At Hegeman Avenue and Vermont Street in Brooklyn, Sergeant David Grieco threatened to arrest § 87(2)(b)	
L.SGT David Grieco	Abuse: At Hegeman Avenue and Vermont Street in Brooklyn, Sergeant David Grieco interfered with § 87(2)(b) s and § 87(2)(b) s use of recording devices.	
M.POM Frank Ryan	Abuse: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Frank Ryan interfered with § 87(2)(b) s and § 87(2)(b) s use of recording devices.	
N.POM Joseph Fallon	Force: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon used a chokehold against § 87(2)(b)	
O.POM Joseph Fallon	Force: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon restricted § 87(2)(b) s breathing	
P.SGT David Grieco	Discourtesy: At the PSA 2 stationhouse, Sergeant David Grieco spoke discourteously to § 87(2)(b)	
Q.POM Joseph Fallon	Discourtesy: At the PSA 2 stationhouse, Police Officer Joseph Fallon spoke discourteously to § 87(2)(b)	
R.POM Frank Ryan	Discourtesy: At the PSA 2 stationhouse, Police Officer Frank Ryan spoke discourteously to § 87(2)(b)	
S.SGT Daniel Conforti	Discourtesy: At the PSA 2 stationhouse, Sergeant Daniel Conforti spoke discourteously to § 87(2)(b)	
T.POM John Funk	Discourtesy: At the PSA 2 stationhouse, Police Officer John Funk spoke discourteously to § 87(2)(b)	
U.SGT David Grieco	Off. Language: At the PSA 2 stationhouse, Sergeant David Grieco made remarks to § 87(2)(b) based upon the gender of his mother.	
V.POM Joseph Fallon	Off. Language: At the PSA 2 stationhouse, Police Officer Joseph Fallon made remarks to § 87(2)(b) based upon the gender of his mother.	
W.POM Frank Ryan	Off. Language: At the PSA 2 stationhouse, Police Officer Frank Ryan made remarks to § 87(2)(b) based upon the gender of his mother.	
X.SGT Daniel Conforti	Off. Language: At the PSA 2 stationhouse, Sergeant Daniel Conforti made remarks to § 87(2)(b) based upon the gender of his mother.	
Y.POM John Funk	Off. Language: At the PSA 2 stationhouse, Police Officer John Funk made remarks to § 87(2)(b) based upon the gender of his mother.	
Z.SGT David Grieco	Force: At the PSA 2 stationhouse, Sergeant David Grieco used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
2A.POM Joseph Fallon	Force: At the PSA 2 stationhouse, Police Officer Joseph Fallon used physical force against § 87(2)(b)	
2B.POM Frank Ryan	Force: At the PSA 2 stationhouse, Police Officer Frank Ryan used physical force against § 87(2)(b)	
2C. An officer	Force: At the PSA 2 stationhouse, an officer used physical force against § 87(2)(b)	

Case Summary

On September 30, 2017, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System.

At approximately 1:20 a.m. on September 24, 2017, § 87(2)(b) was walking near the intersection of Hegeman Avenue and Vermont Street in Brooklyn along with several friends, including § 87(2)(b) and § 87(2)(b). Three plainclothes officers riding in an unmarked vehicle, Sgt. David Grieco, PO Joseph Fallon and PO Frank Ryan of PSA 2, stopped § 87(2)(b) and § 87(2)(b) (**Allegations A through C: Abuse of Authority, stop – § 87(2)(g)** **Allegations D through F: Abuse of Authority, stop – § 87(2)(g)** PO Fallon allegedly grabbed § 87(2)(b) and pushed him against the side of the unmarked vehicle (**Allegation G: Force – Physical force, § 87(2)(g)** PO Fallon allegedly used numerous profanities towards § 87(2)(b) during this time (**Allegation H: Discourtesy – Word, § 87(2)(g)** Both § 87(2)(b) and § 87(2)(b) allegedly started to record the incident using their cell phones. Sgt. Grieco and PO Fallon allegedly told both of them, “Get the fuck out of the street” (**Allegations I and J: Discourtesy – Word, § 87(2)(g)** Sgt. Grieco told § 87(2)(b) that he would be arrested if he did not leave the street (**Allegation K: Abuse of Authority – Threat of arrest, § 87(2)(g)** Sgt. Grieco and PO Ryan then allegedly attempted to take § 87(2)(b)s and § 87(2)(b)s phones from them (**Allegations L and M: Abuse of authority – Interference with a recording device, § 87(2)(g)** PO Fallon handcuffed § 87(2)(b) and placed him in the rear of the unmarked vehicle. PO Fallon then allegedly placed his hand around § 87(2)(b)s neck and started choking him (**Allegation N: Force – chokehold, § 87(2)(g)** **Allegation O: Force – Restricted breathing, § 87(2)(g)** PO Fallon then allegedly punched § 87(2)(b) in the face (**Subsumed in Allegation D**). § 87(2)(b) was placed under arrest and charged with § 87(2)(b). None of the other civilians were arrested.

Sgt. Grieco, PO Fallon and PO Ryan transported § 87(2)(b) to the PSA 2 stationhouse for arrest processing. The three officers took § 87(2)(b) to the front desk and presented him to the desk officer, Sgt. Daniel Conforti. Also behind the desk at the time was the telephone switchboard (TS) operator, PO John Funk. During this interaction, all five officers allegedly made discourteous remarks, including several comments about § 87(2)(b)s mother (**Allegations P-T: Discourtesy – word, § 87(2)(g)** **Allegations U-Y: Offensive Language – Gender, § 87(2)(g)** Sgt. Grieco, PO Fallon and PO Ryan allegedly threw § 87(2)(b) to the floor in front of the desk and held him down (**Allegations Z, 2A and 2B: Force – Physical force, § 87(2)(g)** One of the officers allegedly stomped on § 87(2)(b)s ankle (**Allegation 2C: Force – Physical force, § 87(2)(g)**). Sgt. Conforti contacted both EMS and ESU, who removed § 87(2)(b) to § 87(2)(b) as an emotionally disturbed person (EDP). § 87(2)(b) was charged with § 87(2)(b) in regards to his conduct inside of the stationhouse.

After § 87(2)(b) was discharged from the hospital, he was transported to Brooklyn Central Booking by PO David Zhou. When he was lodged at Brooklyn Central Booking, he was allegedly found to be in possession of marijuana. He was re-arrested and charged with § 87(2)(b).

Sgt. Grieco recorded a video depicting a portion of the incident at Hegeman Avenue and Vermont Street. The video was attached in IA #144 (See Board Review #01: Video Footage) and summarized in IA #180 (See Board Review #02: Video Summary). No other video footage was found for this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: At Hegeman Avenue and Vermont Street in Brooklyn, Sergeant David Grieco stopped § 87(2)(b)

Allegation (B) Abuse of Authority: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon stopped § 87(2)(b)

Allegation (C) Abuse of Authority: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Frank Ryan stopped § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on October 23, 2017 (See Board Review #03: § 87(2)(b)'s Statement). He stated that at the start of the incident, he, § 87(2)(b) and § 87(2)(b) were walking near the intersection of Hegeman Avenue and Vermont Street in Brooklyn. § 87(2)(b) initially denied that he or his friends were carrying anything at the time. He later stated that § 87(2)(b) was using his cell phone at the time. § 87(2)(b) observed three plainclothes officers, Sgt. Grieco, PO Fallon and PO Ryan, pass by in an unmarked vehicle. § 87(2)(b) knelt down to tie his shoelaces. All three officers then exited their vehicle and approached § 87(2)(b). PO Fallon asked § 87(2)(b) "What did you throw?" § 87(2)(b) denied that he had thrown anything. PO Fallon then pushed him against the side of the unmarked vehicle. PO Fallon accused § 87(2)(b) of both jaywalking and littering. § 87(2)(b) denied having taken either action. § 87(2)(b) made no mention of officers searching the area where he was stopped.

§ 87(2)(b) provided a telephone statement on November 8, 2018 (See Board Review #04: § 87(2)(b)'s Statement). He stated that he was walking with § 87(2)(b) and § 87(2)(b) when Sgt. Grieco, PO Fallon and PO Ryan drove up to them in an unmarked car. The officers exited their vehicle and told all three civilians to stop. § 87(2)(b) stopped, while § 87(2)(b) and § 87(2)(b) continued walking. § 87(2)(b) did not mention any of the officers providing an explanation for why they were being stopped.

§ 87(2)(b) did not respond to efforts made to schedule him for a sworn statement. The investigation was unable to contact § 87(2)(b) or obtain a statement from him (See Board Review #05: Civilian Contact Attempts).

PO Fallon and Sgt. Grieco were interviewed at the CCRB on February 21, 2017. PO Ryan was interviewed on February 28, 2017 (See Board Review #06-08: MOS Statements). § 87(2)(b). At the time of the incident, the three officers were riding in an unmarked sedan near the intersection of Hegeman Avenue and Vermont Street. As they drove past § 87(2)(b) and his friends, § 87(2)(b) looked directly at the officers. PO Fallon stated that he saw § 87(2)(b) throw an object down a storm drain installed on the curb. The object was larger than a cigarette and smaller than a bottle, but he was unable to tell what shape or color the object was. He did not know what the object was. He concluded that the object was somehow illegal due to the manner in which § 87(2)(b) disposed of it. Sgt. Grieco stated that he saw § 87(2)(b) reach down

towards a storm drain. While he did not see if § 87(2)(b) threw anything down the drain, he also suspected that § 87(2)(b) had thrown something into the drain based on the motion § 87(2)(b) made. PO Ryan stated that § 87(2)(b) ducked behind a parked car, dropping out of his sight. After § 87(2)(b) ducked behind the car, PO Ryan heard the sound of a metal object hitting the ground. He did not see what it was. When PO Ryan later walked to the other side of the parked car, he found that there was a storm drain on the curb.

PO Fallon and PO Ryan stated that § 87(2)(b) later walked diagonally across the intersection, disregarding the marked crosswalks. PO Fallon considered this action to constitute jaywalking. PO Ryan did not know if § 87(2)(b) was crossing the street or walking towards their unmarked vehicle. Sgt. Grieco made no mention of § 87(2)(b) jaywalking or improperly crossing a street.

Both PO Fallon and Sgt. Grieco decided to stop § 87(2)(b) both to investigate the object that was thrown down the drain. PO Fallon also cited § 87(2)(b)'s jaywalking as a factor. No other factors contributed to their decision. Sgt. Grieco did not recall the officers discussing the stop before they approached § 87(2)(b). PO Fallon stated that he told Sgt. Grieco and PO Ryan that he had seen § 87(2)(b) throw something down the drain. PO Ryan stated that he had also seen this action. The officers stopped their vehicle and exited. PO Ryan went to the drain to examine it. Nothing was ultimately found in the drain. All three officers stated that PO Fallon approached § 87(2)(b) directly and asked what he had thrown in the drain. § 87(2)(b) told PO Fallon to look himself. PO Fallon stated that § 87(2)(b) then spat into the unmarked car. Sgt. Grieco and PO Ryan denied having seen this action themselves, but stated that they learned of it after the fact from PO Fallon. PO Fallon arrested § 87(2)(b) for spitting into the unmarked car. PO Fallon also alleged that § 87(2)(b) spat on his face before spitting inside of the vehicle, and that this too contributed to his decision to arrest § 87(2)(b). Neither Sgt. Grieco nor PO Ryan stated that they saw § 87(2)(b) spit on PO Fallon, or heard PO Fallon claim that § 87(2)(b) had done so.

A civilian's attempt to separate or divest themselves of an object upon contact with a police officer yields that officer with a founded suspicion that criminality is afoot. This in turn would provide an officer with sufficient legal justification to ask pointed questions in regard to the object. People v. Nobles, 63 A.D.3d 528 (2009, 1st Dept.) (See Board Review #09: Legal Reference).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

Allegation (D) Abuse of Authority: At Hegeman Avenue and Vermont Street in Brooklyn, Sergeant David Grieco stopped § 87(2)(b) and § 87(2)(b)
Allegation (E) Abuse of Authority: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon stopped § 87(2)(b) and § 87(2)(b)
Allegation (F) Abuse of Authority: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Frank Ryan stopped § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) stated that when Sgt. Grieco, PO Fallon and PO Ryan approached § 87(2)(b) they also told him and § 87(2)(b) to stop as well. He denied that any of the officers chased after him or § 87(2)(b) at any point. The officers did not question § 87(2)(b) or § 87(2)(b). Instead, they told § 87(2)(b) and § 87(2)(b) several times to get off of the street and move onto the sidewalk. Neither § 87(2)(b) nor § 87(2)(b) was arrested.

Sgt. Grieco, PO Fallon and PO Ryan all denied that § 87(2)(b) or § 87(2)(b) were stopped during the incident. They denied leveling any suspicion towards § 87(2)(b) and § 87(2)(b) stating that they were focused solely on § 87(2)(b) and the object that he allegedly disposed of in the storm drain. All three officers denied that any of the officers chased after § 87(2)(b).

§ 87(2)(b) or § 87(2)(b) at any point. Sgt. Grieco and PO Ryan both stated that they told § 87(2)(b) and § 87(2)(b) multiple times to step away and move onto the sidewalk.

Sgt. Grieco recorded his interactions with § 87(2)(b) using his department-issued phone. The footage has been attached below. Throughout the video, Sgt. Grieco tells § 87(2)(b) numerous times to move away from § 87(2)(b) and step out of the street. Neither Sgt. Grieco nor any other officer are heard telling § 87(2)(b) or any other civilians that they are not free to leave. No officers are seen chasing after or otherwise pursuing any civilians.



201708116 - § 87(2)(b) - Video 1.mp4

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Force: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon used physical force against § 87(2)(b)

Allegation (N) Force: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon used a chokehold against § 87(2)(b)

Allegation (O) Force: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon restricted § 87(2)(b)'s breathing.

§ 87(2)(b) stated that after the officers approached him and his friends, PO Fallon grabbed his right arm using both hands. PO Fallon pulled § 87(2)(b) over towards the unmarked vehicle and pushed him against the side of the vehicle, front-first. PO Fallon placed § 87(2)(b) in handcuffs and moved him into the rear of the unmarked vehicle. Once § 87(2)(b) was inside, PO Fallon placed one of his hands around § 87(2)(b)'s neck and choked him for about one minute. § 87(2)(b) estimated that he was able to breathe normally for the first ten seconds, but afterwards had difficulty breathing, causing him to make what he described as “hocking” noises. § 87(2)(b) told PO Fallon that he had trouble breathing. PO Fallon replied that he did not care. § 87(2)(b) then told PO Fallon that he needed to spit. PO Fallon warned § 87(2)(b) that if he spit on him, then he would be charged with an unspecified crime. § 87(2)(b) turned his head and spit onto the floor of the unmarked vehicle. As he spat, PO Fallon punched him once on the right side of his jaw. § 87(2)(b) did not allege that he

sustained any injuries from the force PO Fallon used against him during his arrest. He was later transported by EMS to § 87(2)(b) from the PSA 2 stationhouse.

§ 87(2)(b) initially stated that PO Fallon “threw” § 87(2)(b) against the side of the unmarked vehicle. When asked to explain this action in further detail, § 87(2)(b) stated that PO Fallon grabbed § 87(2)(b) by his waist and moved him over to the side of the vehicle. PO Fallon then placed § 87(2)(b) into the unmarked vehicle and drove away. § 87(2)(b) denied seeing PO Fallon or any of the other officers use physical force of any kind against § 87(2)(b) before he was driven away.

A prehospital care report summary was prepared for § 87(2)(b) when he was transported from the PSA 2 stationhouse to § 87(2)(b). The summary indicates that § 87(2)(b) had no apparent injuries (See Board Review #10: Prehospital Care Report Summary). § 87(2)(b)'s medical records were subpoenaed from § 87(2)(b). On November 14, 2017, the hospital responded to the request, stating that they were unable to locate any records for § 87(2)(b) on the date of the incident (See Board Review #11: § 87(2)(b) Records).

All three officers stated that PO Fallon initially engaged in conversation with § 87(2)(b). They denied that PO Fallon pushed or shoved § 87(2)(b) against the side of the vehicle. PO Fallon only made physical contact with § 87(2)(b) once he decided to arrest § 87(2)(b). At that point, he placed § 87(2)(b) into handcuffs without struggle and moved him into the rear of the unmarked car. All three officers denied that PO Fallon punched § 87(2)(b), choked § 87(2)(b), or made contact with § 87(2)(b)'s neck. None of the officers observed any injuries to § 87(2)(b) during the incident. They denied that § 87(2)(b) complained to them of any injuries.

§ 87(2)(g)

Allegation (H) Discourtesy: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that after PO Fallon pushed him against the side of the unmarked vehicle, PO Fallon called him a “smart ass.” He also told § 87(2)(b) three times to give up control of his “fucking hands.” PO Fallon called § 87(2)(b) a “smart ass” again after he punched § 87(2)(b) in the face. § 87(2)(b) denied hearing PO Fallon or any other officer use any sort of profanity towards § 87(2)(b) during the incident.

PO Fallon denied that he used any profanity while speaking to § 87(2)(b) including demanding § 87(2)(b)'s “fucking hands” or calling § 87(2)(b) a “smart ass.” Sgt. Grieco and PO Ryan denied hearing PO Fallon or any other officers use profanity during § 87(2)(b)'s arrest.

§ 87(2)(b) § 87(2)(g) corroborated the officers' account. § 87(2)(g)

Allegation (I) Discourtesy: At Hegeman Avenue and Vermont Street in Brooklyn, Sergeant David Grieco spoke discourteously to § 87(2)(b) and § 87(2)(b)

Allegation (J) Discourtesy: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Joseph Fallon spoke discourteously to § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) stated that when the officers first approached him and his friends, he and § 87(2)(b) stood by while PO Fallon frisked § 87(2)(b). Sgt. Grieco and PO Fallon both told § 87(2)(b) and § 87(2)(b) "Get the fuck out of the street." § 87(2)(b) estimated that the officers repeated this command three times. § 87(2)(b) did not specifically state where he was standing at the time, but he did state that he and § 87(2)(b) ignored the officers' instructions.

§ 87(2)(b) made no mention of any officers using profanity towards § 87(2)(b) or § 87(2)(b). He did not make any mention of any officers telling § 87(2)(b) or § 87(2)(b) to get out of the street.

All three officers denied that profanity was used towards any of the civilians during the incident. Sgt. Grieco and PO Ryan both stated that Sgt. Grieco did tell § 87(2)(b) and § 87(2)(b) to get out of the street and move onto the sidewalk, but they denied that he told them, "Get the fuck out of the street." PO Fallon denied that he spoke to or otherwise interacted with § 87(2)(b) or § 87(2)(b). He denied paying any attention to § 87(2)(b) or § 87(2)(b) and made no mention of either of them receiving any commands from him or his fellow officers.

The video footage recorded by Sgt. Grieco depicts his interaction with § 87(2)(b) during § 87(2)(b)'s arrest. In it, Sgt. Grieco tells § 87(2)(b) eleven times to get out of the street and move onto the sidewalk. Sgt. Grieco does not use any profanity while issuing these commands. No other officer is heard telling § 87(2)(b) to get out of the street. Several other civilians are seen in the background of the video, but none of them interact with Sgt. Grieco or any of the other officers. None of the officers issued any commands to the other civilians.



201708116 - § 87(2)(b) - Video 1.mp4

§ 87(2)(g)

Allegation (K) Abuse of Authority: At Hegeman Avenue and Vermont Street in Brooklyn, Sergeant David Grieco threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that after Sgt. Grieco and PO Ryan told him and § 87(2)(b) to get out of the street, Sgt. Grieco told him that he would be "locked up" if he did not comply. § 87(2)(b)

Allegation (L) Abuse of Authority: At Hegeman Avenue and Vermont Street in Brooklyn, Sergeant David Grieco interfered with § 87(2)(b)s and § 87(2)(b)s use of recording devices.

Allegation (M) Abuse of Authority: At Hegeman Avenue and Vermont Street in Brooklyn, Police Officer Frank Ryan interfered with § 87(2)(b)s and § 87(2)(b)s use of recording devices.

§ 87(2)(b) stated that after PO Fallon threw him against the side of the vehicle and cursed at him, he told § 87(2)(b) and § 87(2)(b) to record the incident. Both § 87(2)(b) and § 87(2)(b) took out their phones and began to record. Sgt. Grieco and PO Ryan approached § 87(2)(b) and § 87(2)(b) but the two civilians evaded the officers by walking around the unmarked vehicle in opposite directions. Sgt. Grieco managed to catch up to § 87(2)(b) and take his phone from his hand. PO Ryan pursued § 87(2)(b) but § 87(2)(b) was able to keep away from him and record. The officers were ultimately unable to stop § 87(2)(b) from recording.

§ 87(2)(b) stated that he started to record § 87(2)(b) when the officers first approached. PO Ryan told § 87(2)(b) “Put the phone away.” § 87(2)(b)s phone was low on batteries at the time, so § 87(2)(b) put his phone away. He denied that the officers made any additional efforts to prevent him from recording, including taking any physical actions.

Sgt. Grieco and PO Ryan both stated that § 87(2)(b) was recording the incident on his cell phone. They did not observe any other civilians holding phones. They denied that any officer took any action to prevent § 87(2)(b) from making his recording. Sgt. Grieco additionally stated that he responded to § 87(2)(b)s recording by making his own recording using his department-issued cell phone. PO Ryan made no mention of Sgt. Grieco’s recording.

PO Fallon stated that he heard § 87(2)(b) tell § 87(2)(b) and § 87(2)(b) to record the incident as he was being handcuffed. Because he was focused on arresting § 87(2)(b) PO Fallon did not see if § 87(2)(b) or § 87(2)(b) made any recording. He was not aware of Sgt. Grieco or PO Ryan taking any action to prevent § 87(2)(b) or § 87(2)(b) from recording.

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Allegation (P) Discourtesy: At the PSA 2 stationhouse, Sergeant David Grieco spoke discourteously to § 87(2)(b)

Allegation (Q) Discourtesy: At the PSA 2 stationhouse, Police Officer Joseph Fallon spoke discourteously to § 87(2)(b)

Allegation (R) Discourtesy: At the PSA 2 stationhouse, Police Officer Frank Ryan spoke discourteously to § 87(2)(b)

Allegation (S) Discourtesy: At the PSA 2 stationhouse, Sergeant Daniel Conforti spoke discourteously to § 87(2)(b)

Allegation (T) Discourtesy: At the PSA 2 stationhouse, Police Officer John Funk spoke discourteously to § 87(2)(b)

Allegation (U) Offensive Language: At the PSA 2 stationhouse, Sergeant David Grieco made remarks to § 87(2)(b) based upon the gender of his mother.

Allegation (V) Offensive Language: At the PSA 2 stationhouse, Police Officer Joseph Fallon made remarks to § 87(2)(b) based upon the gender of his mother.

Allegation (W) Offensive Language: At the PSA 2 stationhouse, Police Officer Frank Ryan made remarks to § 87(2)(b) based upon the gender of his mother.

Allegation (X) Offensive Language: At the PSA 2 stationhouse, Sergeant Daniel Conforti made remarks to § 87(2)(b) based upon the gender of his mother.

Allegation (Y) Offensive Language: At the PSA 2 stationhouse, Police Officer John Funk made remarks to § 87(2)(b) based upon the gender of his mother.

§ 87(2)(b) stated that he was transported to the PSA 2 stationhouse after his arrest and brought before the desk officer, who was identified by the investigation as Sgt. Conforti. Another officer, identified by the investigation as PO Funk, was also behind the desk. § 87(2)(b) declined to identify himself at the front desk. PO Fallon told § 87(2)(b) “If you don’t start to talk, I’m gonna go back and go find where your mother is and I’m gonna have her suck my penis.” Later, when Sgt. Grieco, PO Fallon and PO Ryan took § 87(2)(b) to the floor, § 87(2)(b) complained that the officers were hurting him. Sgt. Grieco, PO Fallon and PO Ryan all told § 87(2)(b) “We do not give a fuck.” When § 87(2)(b) continued to complain, these three officers, along with Sgt. Conforti and PO Funk, started to make several discourteous and obscene remarks. These officers made several statements, including, “Fuck you,” “Your mother’s a little bitch,” and, “Your mother just came from sucking all of our dicks.” § 87(2)(b) did not attribute any specific statements to individual officers, but he stated that all five officers made similar remarks to him at the time.

Sgt. Grieco, PO Fallon and PO Ryan identified themselves as the officers who escorted § 87(2)(b) to Sgt. Conforti at the front desk. They denied that they or any other officers used any profanity towards § 87(2)(b) or made any inappropriate remarks about § 87(2)(b)’s mother.

Sgt. Conforti was interviewed at the CCRB on February 1, 2018 (See Board Review #12: Sgt. Conforti’s Statement). He denied that he used any profanity while speaking to § 87(2)(b) at the front desk. He denied that he made any sexually suggestive remarks or remarks involving § 87(2)(b)’s mother. Sgt. Conforti did not recall if any other officers used profanity or made any inappropriate remarks towards § 87(2)(b).

PO Funk was interviewed at the CCRB on April 23, 2018 (See Board Review #13: PO Funk’s Statement). He did not recall the incident. PO Funk confirmed that he worked behind the front

desk as the TS operator. He stated that prisoners are frequently brought before the front desk at the stationhouse, and that he does not have an explicit recollection of either § 87(2)(b) or any other prisoner coming to the desk at the time of the incident. PO Funk did not recall himself or any other officer using profanity or making offensive remarks in regards to a prisoner's mother.

§ 87(2)(g)

Allegation (Z) Force: At the PSA 2 stationhouse, Sergeant David Grieco used physical force against § 87(2)(b)

Allegation (2A) Force: At the PSA 2 stationhouse, Police Officer Joseph Fallon used physical force against § 87(2)(b)

Allegation (2B) Force: At the PSA 2 stationhouse, Police Officer Frank Ryan used physical force against § 87(2)(b)

§ 87(2)(b) stated that he was in handcuffs and leg shackles when he was presented to Sgt. Conforti at the front desk. When PO Fallon started to curse at him in front of Sgt. Conforti, he responded by spitting on the floor and insulting the gathered officers by calling them "bitches." Sgt. Grieco, PO Fallon and PO Ryan then lifted § 87(2)(b) up by his handcuffs and leg shackles. The officers raised him up about three feet off of the floor. They then forcibly slammed him down to the floor. § 87(2)(b) landed face-down. While on the ground, phlegm started to accumulate in § 87(2)(b)'s throat. To clear it, § 87(2)(b) spat onto the floor. He denied that his saliva made contact with any of the officers. After § 87(2)(b) spat, PO Fallon pulled § 87(2)(b)'s shirt over his mouth and pressed down on the back of § 87(2)(b)'s neck to prevent him from spitting. No other officers besides Sgt. Grieco, PO Fallon and PO Ryan used force against § 87(2)(b) at the stationhouse. § 87(2)(b) experienced pain in his back and neck after he was taken to the ground. He also sustained bruising to his right ankle. EMTs were called to the stationhouse to transport § 87(2)(b) to § 87(2)(b). He was admitted there as a psychiatric patient. He denied that he received treatment for any physical injuries at § 87(2)(b).

EMT § 87(2)(b) was interviewed at the CCRB on January 19, 2018. EMT § 87(2)(b) was interviewed at the CCRB on January 22, 2018 (See Board Review #14-15: EMT Statements). EMT § 87(2)(b) did not recall this incident. He did not recall any officers using force against a civilian at the PSA 2 stationhouse. § 87(2)(b) initially did not recall the incident either, but he remembered it after reviewing the prehospital care report summary prepared to document § 87(2)(b)'s removal to the hospital. EMT § 87(2)(b) stated that he and EMT § 87(2)(b) were called to assist with a prisoner at the PSA 2 stationhouse. When they arrived, they found § 87(2)(b) lying face-down on the floor in front of the front desk. § 87(2)(b) was yelling and cursing at several officers who were standing around him. One or two officers were holding § 87(2)(b) down by placing their knees on top of § 87(2)(b)'s torso and legs. § 87(2)(b) was wriggling his body and trying to kick at the officers around him. § 87(2)(b) spat repeatedly as the officers held him down, but § 87(2)(b)'s saliva fell to the floor without striking any of the officers. Due to § 87(2)(b)'s combative behavior, the EMTs waited for ESU to come and restrain § 87(2)(b) before they transported him. While the EMTs waited for ESU, § 87(2)(b) threatened to kill the officers around him. When ESU arrived,

they assisted the EMTs in lifting § 87(2)(b) onto a stretcher and removing him. EMT § 87(2)(b) did not recall if the ESU officers applied a restraining bag to § 87(2)(b). He did not observe any injuries to § 87(2)(b). EMT § 87(2)(b) did not recall why § 87(2)(b) was being hospitalized, but assumed, based on § 87(2)(b)'s combative behavior, that he was being treated as an EDP. EMT § 87(2)(b) did not recall if any actions were taken to prevent § 87(2)(b) from spitting.

§ 87(2)(b)'s prehospital care report summary was prepared by EMT § 87(2)(b) when he and EMT § 87(2)(b) transported § 87(2)(b) to § 87(2)(b). The report states that § 87(2)(b) was transported to the hospital as an EDP. When the EMTs first examined § 87(2)(b) at the PSA 2 stationhouse, § 87(2)(b) was trying to bite and spit on officers. He also threatened to harm several police officers and their families (See Board Review: Prehospital Care Report Summary). As noted above, § 87(2)(b) was unable to provide medical records documenting § 87(2)(b)'s treatment there (See Board Review #11: § 87(2)(b) Records).

§ 87(2)(g)
§ 87(2)(b). Sgt. Grieco and PO Fallon both stated that they presented § 87(2)(b) to Sgt. Conforti at the front desk. PO Fallon did not recall if Sgt. Grieco and PO Ryan were with him. He also stated that while he and § 87(2)(b) were in front of the desk, § 87(2)(b) tried to bite PO Fallon. § 87(2)(b)'s teeth made contact with PO Fallon's hat and his hair, but did not make contact with PO Fallon's body. Sgt. Grieco did not recall § 87(2)(b) biting or attempting to bite anybody. Both officers stated that § 87(2)(b) spat at Sgt. Conforti. Sgt. Grieco denied that the saliva made contact with Sgt. Conforti. PO Fallon did not state whether the saliva made contact. § 87(2)(b) also stated that he would sexually assault or kill Sgt. Conforti's mother. PO Fallon felt threatened by § 87(2)(b)'s efforts to bite and spit on officers.

Sgt. Grieco and PO Fallon both stated that Sgt. Conforti contacted ESU and EMS to have them remove § 87(2)(b) from the stationhouse as an EDP. Both officers stated that they stood with § 87(2)(b) at the front desk for several minutes until ESU arrived. PO Fallon denied that he or any other officer brought § 87(2)(b) to the ground. Sgt. Grieco did not recall if § 87(2)(b) was taken to the ground. Neither officer was aware of any officers taking any kind of action to prevent § 87(2)(b) from spitting, including pulling § 87(2)(b)'s shirt over his mouth. The officers waited with § 87(2)(b) at the desk for about fifteen minutes while waiting for ESU to arrive. PO Fallon stated that § 87(2)(b) threatened to kill the officers during that time, but he stopped spitting and biting. § 87(2)(b) did not offer any physical resistance. Sgt. Grieco stated that § 87(2)(b) continued trying to spit on the officers around him. He did not recall if § 87(2)(b) offered physical resistance during the wait. Eventually, both ESU and EMS arrived at the stationhouse and removed § 87(2)(b) to the hospital without further incident. Neither Sgt. Grieco nor PO Fallon was aware of § 87(2)(b) sustaining any physical injuries during the incident.

PO Ryan also stated that he was one of the officers who presented § 87(2)(b) to Sgt. Conforti at the front desk. He also stated that § 87(2)(b) tried unsuccessfully to bite PO Fallon and spit on Sgt. Conforti. § 87(2)(b) then threatened to shoot PO Fallon. In response, the officers took § 87(2)(b) to the floor. PO Ryan did not recall which officers took this action or what specific actions were taken to bring § 87(2)(b) down. He did not recall if he assisted in bringing § 87(2)(b) to the floor. He did not state how § 87(2)(b) was positioned on the floor. While on the ground, § 87(2)(b) continued shouting and cursing at the officers around him. PO Ryan did not recall if § 87(2)(b) took any

physical actions while on the ground, including biting or spitting. After several minutes, ESU and EMS arrived at the stationhouse. The ESU officers placed § 87(2)(b) in a restraining bag and then removed him from the stationhouse without incident. PO Ryan did not recall § 87(2)(b) sustaining any injuries during the incident.

Sgt. Conforti stated that when Sgt. Grieco, PO Fallon and PO Ryan presented § 87(2)(b) at the front desk, § 87(2)(b) was cursing, screaming and spitting at the officers. Once § 87(2)(b) was in front of the desk, he also attempted to spit on Sgt. Conforti. When he did this, several officers brought § 87(2)(b) to the ground. Sgt. Conforti did not recall if Sgt. Grieco, PO Fallon and PO Ryan took this action, or if it was other officers inside of the stationhouse. He did not recall the specific actions that the officers took to bring § 87(2)(b) down. He did not recall if any officers lifted § 87(2)(b) up by his handcuffs or leg shackles. Sgt. Conforti did not recall if § 87(2)(b) offered any sort of physical resistance when he was brought to the ground. Once § 87(2)(b) was on the ground, he shouted at the officers around them, stating that he was going to kill them and have sexual intercourse with their girlfriends. Sgt. Conforti contacted ESU in order to have them remove § 87(2)(b) to a hospital. Sgt. Conforti felt that § 87(2)(b) was an EDP due to the fact that he was spitting, shouting and threatening the officers around him. Sgt. Conforti did not recall there being any other reason why § 87(2)(b) needed to be hospitalized beyond his apparent emotional disturbance.

PO Funk did not recall this incident. He did not recall witnessing any struggles involving a prisoner at the stationhouse's front desk. He did not recall any officers forcing a prisoner to the floor or holding a prisoner down on the floor. He was not aware of any prisoner being hospitalized, or being removed from the stationhouse by EMS or ESU.

Det. Robert Schierenbeck of ESU Truck 7 prepared an ESU Report to document § 87(2)(b)'s removal to the hospital. The report states that Det. Schierenbeck responded to a report of an EDP at the PSA 2 stationhouse. The EDP was handcuffed near the stationhouse's front desk. ESU officers assisted EMTs in loading the EDP onto a stretcher. Neither the EDP nor any officers sustained any injuries. Notation on the report indicates that a restraining bag was not deployed (See Board Review #16: ESU Report).

NYPD Patrol Guide procedure 221-01 states that officers may use force in order to bring an individual into custody. The application or use of force must be reasonable under the circumstances (See Board Review #17: Legal References).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Allegation (2C) Force: At the PSA 2 stationhouse, an officer used physical force against

§ 87(2)(b)

§ 87(2)(b) alleged that after the three officers brought him to the floor, they held him down by pressing down on his body. One of these officers put his foot down on top of § 87(2)(b)'s right ankle. § 87(2)(b) did not see which of the three officers did this. This officer alternated between pressing down on § 87(2)(b)'s ankle and stomping on the ankle.

EMT § 87(2)(b) did not recall the incident at the stationhouse. EMT § 87(2)(b) stated that he saw officers holding § 87(2)(b) down on the ground. He did not observe any officers step on any part of § 87(2)(b)'s body.

Sgt. Grieco did not recall § 87(2)(b) being on the ground at any time. PO Fallon denied that § 87(2)(b) was taken to the ground. Neither of them was aware of any officer stomping on § 87(2)(b) at any point. PO Ryan and Sgt. Conforti stated that § 87(2)(b) was taken to the ground, but they denied that any officer stepped on him. PO Funk did not recall the incident.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) has been party to.
- § 87(2)(b) has been party to one previous CCRB complaint, but was not named as a victim in it (See Board Review #18: Civilian CCRB Histories).
- § 87(2)(g)
- PO Fallon has been a member of the service for four years and has been a subject in four CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)

- PO Ryan has been a member of the service for six years and has been a subject in seven CCRB complaint and nine allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Conforti has been a member of the service for twelve years and has been a subject in three CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)
- PO Funk has been a member of the service for four years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- A Notice of Claim request was submitted to the NYC Office of the Comptroller on May 7, 2018. It will be included in the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Allegations Not Pleaded

- § 87(2)(b) alleged that before PO Fallon moved § 87(2)(b) up against the side of the unmarked vehicle at Hegeman Avenue and Vermont Street, PO Fallon frisked § 87(2)(b) along his legs and pants, and searched § 87(2)(b) by reaching into his pockets and removing § 87(2)(b)'s MetroCard. Afterwards, PO Fallon moved § 87(2)(b) to the side of the unmarked vehicle. § 87(2)(b) the victim of these allegations, stated that he was moved to the side of the vehicle as soon as PO Fallon approached him. He did not allege being frisked or searched until later on, when he was in custody at the PSA 2 stationhouse. § 87(2)(g)

Squad No.: _____

Investigator: _____
 Signature Print Title & Name Date

Squad Leader: _____
 Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date